

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

DANNY S. DOWNS, M.D.

Holder of License No. 25306
For the Practice of Allopathic Medicine
In the State of Arizona

Case No. MD-08-0841A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Danny S. Downs, M.D. ("Respondent"), the parties agree to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other
2 pending or future investigation, action or proceeding. The acceptance of this Consent
3 Agreement does not preclude any other agency, subdivision or officer of this State from
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject
5 of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

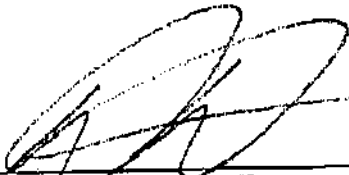
12 7. Upon signing this agreement, and returning this document (or a copy thereof) to
13 the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that will
21 be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

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8 DANNY S. DOWNS, M.D.

DATED: 4-06-09

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for the regulation and control of
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of license number 25306 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-08-0841A after receiving notification of
7 a malpractice settlement involving Respondent's care and treatment of a sixty-five year-old
8 male patient ("KH").

9 4. On February 14, 2005, KH presented to Respondent complaining of gas
10 discomfort and associated vomiting. KH had a history of diabetes, hypertension, obesity
11 and prior abdominal hernia repair with recurrent ventral herniation. Respondent
12 documented KH's vital signs and abdominal findings and prescribed Phenergan.
13 Respondent did not order any labs, an electrocardiogram (EKG) or x-ray evaluations. On
14 February 16, 2005, KH complained of continued discomfort and bloating. Respondent
15 ordered a kidney, ureter, and bladder x-ray study that did not show free air, but was
16 suggestive of a large ventral herniation with loops of bowel within the hernia. Respondent
17 did not conduct a re-examine of KH to include a heart, lung and complete abdominal
18 examination with detailed findings.

19 5. Later that evening, KH presented to the emergency room with severe
20 abdominal pain with nausea and vomiting and no bowel movements for four days. A
21 computed tomography scan of the abdomen and pelvis showed a large right Spigelian
22 hernia containing a large amount of small bowel with intraperitoneal free air and stranding
23 of the peritoneal fat. KH underwent resection of the small bowel and hernia repair.
24 Postoperatively, KH remained hypotensive on maximal pressors and decreased oxygen
25

1 saturation. On February 17, 2005, KH's hypotension worsened, he went into cardiac arrest
2 and died.

3 6. The standard of care requires a physician to fully evaluate and explore the
4 patient's symptoms and associated complaints; to conduct a directed physical
5 examination, including a heart lung, and complete abdominal examination with detailed
6 findings and to counsel the patient to stop taking diabetes medications. The standard of
7 care also requires a physician to obtain urgent labs, EKG and imaging of the abdomen for
8 an obese diabetic patient who presents tachycardia with gas discomfort with a history of
9 bowel incarceration.

10 7. Respondent deviated from the standard of care because he did not fully
11 evaluate and explore KH's symptoms and other associated complaints, he did not conduct
12 a directed physical examination with detailed findings and he did not counsel KH to stop
13 taking his diabetes medication. Respondent also did not order appropriate urgent labs,
14 EKG and abdominal imaging of KH.

15 8. KH suffered a strangulated hernia with bowel rupture, acute renal failure and
16 subsequent death. As KH's symptoms were not fully explored and only a limited exam was
17 conducted, there was potential to miss an extreme electrolyte imbalance, gastrointestinal
18 bleeding, myocardial infarct, or diabetic ketoacidosis.

19 CONCLUSIONS OF LAW

20 1. The Board possesses jurisdiction over the subject matter hereof and over
21 Respondent.

22 2. The conduct and circumstances described above constitute unprofessional
23 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be
24 harmful or dangerous to the health of the patient or the public.").
25

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.
2. This Order is the final disposition of case number MD-08-0841A.

DATED AND EFFECTIVE this 4th day of June, 2009.



ARIZONA MEDICAL BOARD

By

Lisa S. Wynn
Lisa S. Wynn
Executive Director

ORIGINAL of the foregoing filed
this 4th day of June, 2009 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

EXECUTED COPY of the foregoing mailed
this 4th day of June, 2009 to:

Danny S. Downs, M.D.
Address of Record

Kimberly Coley
Investigational Review